


UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

FILED
2006 AUG 25 PM 4:24
CLERK, US DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY  DEPUTY

UNITED STATES OF AMERICA §
§
v. §
§
FLORITA CEDRO TOLENTINO §

CAUSE NO. EP-04-2091KC

RESPONSE TO THE ORDER TO SHOW CAUSE

**TO THE HONORABLE KATHLEEN CARDONE, UNITED STATES
DISTRICT JUDGE**

COMES NOW Mervyn M. Mosbacker Jr. and files this response to the
Court's Order to Show Cause.

1. On August 17, 2006 Defendant Florita Tolentino's Proposed Voir Dire Questions were filed with the Court.
2. On August 17, 2006 Defendant Florita Tolentino's Motion in Limine was filed with the Court.
3. On August 24, 2006 Defendant Florita Tolentino's Proposed Jury instructions were filed with the Court.
4. Defendant Florita Tolentino's Trial Estimate was filed with the Court together with this response.

5. The Proposed Voir Dire and the Proposed Jury Instructions were prepared for filing before the deadline of August 16, 2006, and in fact were served upon the United States via fax on August 15, 2006. Through mistake and inadvertence, they were not timely filed. Defense counsel, Mervyn M. Mosbacker, Jr, sincerely apologizes to the Court for this oversight. There was no intent by defense counsel to avoid compliance.
6. Defense counsel intended to rely on the trial estimate of the government and should have notified the Court of that fact. Filed with this response is an estimate of the length of the Defendant Florita Tolentino's presentation of her defense, although that estimate may change with the addition defense counsel.
7. Finally, defense counsel sincerely apologizes to the Court for submission of the Proposed Jury Instructions after the date of August 16, 2006. The presentation of the evidence by the government and cross-examination of the witnesses could prompt the need to submit additional proposed jury instructions, and defense counsel respectfully requests the Court to allow such additional filings.

THEREFORE, defense counsel, Mervyn M. Mosbacker Jr. respectfully requests that this Court accept this Reponse to the Court's Order to Show Cause and not impose sanctions.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Mervyn M. Mosbacker, Jr.", written over a horizontal line.

Mervyn M. Mosbacker, Jr.

State Bar No. 14564800

2777 Allen Parkway, Suite 1000

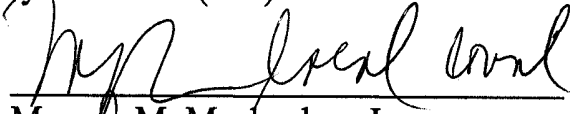
Houston, Texas 77019

Telephone: (713) 529-4200

Facsimile: (713) 529-4211

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this the Response to the Order to Show Cause was sent via fax on August 25, 2006 to Assistant U.S. Attorney J. Brandy Gardes at (915) 534-6024.


Mervyn M. Mosbacher, Jr.